

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Implementation of the Pay )  
Telephone Reclassification and )  
Compensation Provisions of the )  
Telecommunications Act of 1996 )

CC Docket No. 96-128

DOCKET FILE COPY ORIGINAL

REPLY COMMENTS

MCI Telecommunications Corporation (MCI) hereby responds to the comments filed concerning the Commission's proposed rules implementing the payphone provision of the Telecommunications Act of 1996 (the Act).

I. COMPENSATION MUST BE COST-BASED [¶14-23 and ¶ 35-40]

The comments filed support the Commission's tentative conclusions that compensation should be cost-based and that there is no need to prescribe compensation for 0+ calls to the presubscribed carrier because payphone service providers (PSPs) have the ability to receive "fair" compensation through commission payments. The same rationale makes Commission-prescribed compensation unnecessary for any calls made to the presubscribed carrier. Commission-prescribed compensation also is unnecessary for inmate payphones and semi-public payphones, the former because they are provided pursuant to contract (and, therefore, the PSP can require "fair" compensation as a condition to providing its payphones) and, in the latter, because the premise owner pays. In addition, as MCI's comments demonstrate, the Commission should not prescribe compensation for

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international calls because the Act does not require it and there are unique problems associated with such compensation.

MCI also supports AT&T's position that it would be appropriate to base compensation on the total service long run incremental cost (TSLRIC) of providing payphone service. TSLRIC-based compensation would reflect the forward-looking efficient costs of providing payphone service. Therefore, compensation based on TSLRIC not only would be "fair" to PSPs, it also would promote the development of competition in the payphone market and would advance the public interest by encouraging efficiency.

The comments demonstrate that a reasonable cost based compensation amount would be between \$0, which reflects the marginal cost of originating access code and 800 calls from payphones, and \$0.12 per call.<sup>1</sup> Even using the data provided by the RBOC Coalition<sup>2</sup> and the American Public Communications Council (APCC), it is clear that a cost-based compensation amount must be less than \$0.1559 per call. This amount was derived as follows: the RBOC Coalition claims that the embedded direct cost of providing payphone service in 1995 was between \$1,310 and

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<sup>1</sup> For example, MCI demonstrates that compensation should be no more than \$0.083 per call; and Sprint demonstrates that \$0.067 per call would be a "fair" cost-based compensation amount.

<sup>2</sup> The RBOC Coalition includes the Bell Atlantic telephone companies, NYNEX Corporation, BellSouth Corporation, Southwestern Bell Telephone Company, US West, Inc. and Pacific Telesis Group.

\$2,102 per phone for its members.<sup>3</sup> Since the RBOCs' territories contain a mix of urban and rural areas and include the majority of the country, their costs should be fairly representative of the cost of providing service for all PSPs. The APCC states that the average number of completed calls per payphone per year is 8,400.<sup>4</sup> Although the RBOC Coalition indicates that call volumes are lower, MCI's own estimates confirm APCC's number. Thus, based on the lowest RBOC cost of providing a payphone -- presumably the most efficient RBOC -- and the demand estimated by APCC, per-call compensation should be no more than \$0.1559. Moreover, since the RBOCs' costs reflect embedded costs, even this amount is too high.

The comments also demonstrate that there is no need for a higher compensation amount because PSPs already receive revenues far in excess of costs. Thus, the RBOCs state that the average non-coin compensation per payphone of the three largest private payphone owners is \$1,647 per year,<sup>5</sup> and the APCC states that the average coin revenue per payphone is \$1,800 per year.<sup>6</sup> Combined, these yield a total annual revenue per payphone of \$3,360.

The Commission must reject the argument of some commenters

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<sup>3</sup> RBOC Coalition Study at 9-10.

<sup>4</sup> APCC Comments at 5.

<sup>5</sup> RBOC Coalition Study at 6.

<sup>6</sup> APCC Comments at 5.

that compensation should be "market-based." APCC argues that "fair" compensation means more than cost-based compensation and that a market-based compensation amount of \$0.40 per call is required. APCC also argues that commission payments from the presubscribed carrier cannot be viewed as providing fair compensation for the use of the payphone because they are for the value to the interexchange carrier (IXC) of receiving presubscribed traffic. The RBOC Coalition states that \$0.30 per call is an appropriate market-based compensation amount. Some PSPs argue for even a higher level of compensation.

Commission precedent and the principles established in the Communications Act mandate that the Commission reject these positions. The Commission consistently has found that rates should be based on the cost of providing service and there is no reason to depart from that principle now. The Commission also previously rejected the argument that payphone compensation should be based on PSPs' "lost opportunity cost." In addition, compensation greater than the costs of providing service would be contrary to the Communications Act goals of promoting competition (because it would reward inefficient service providers) and protecting the public interest (because it would unnecessarily increase costs to consumers -- either through a direct charge or through higher telecommunications service rates).

It also would not be equitable to require carriers to pay a market-based compensation amount for dial-around and 800 calls because carriers would have no ability to control their

costs by preventing such calls. For a market-based compensation amount to be appropriate, there must be some way to determine the rate that reflects the value of the call to the carrier or end-user. For dial-around calls and 800 calls, the consumer -- not the carrier -- chooses whether to place a call from a payphone. And, in the current environment, the carrier cannot block calls that it may not wish to receive if, for example, the compensation amount is greater than the value of the call because such calls cannot be identified on a real-time basis. Therefore, at least with respect to non-coin calls to a carrier other than the presubscribed carrier, "market-based" compensation is inappropriate.<sup>7</sup>

II. A SET-USE FEE COMPENSATION MECHANISM SHOULD BE ADOPTED  
[¶ 24-28]

As demonstrated by MCI, a set-use fee compensation mechanism should be adopted by the Commission because it is both fair and "competitively neutral." Although a set-use fee mechanism is not available now, it could be if the Commission were to require the uniform implementation of information digits "70" for non-LEC payphones and "27" for LEC payphones, which would be passed to

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<sup>7</sup> A market-based compensation amount may be appropriate for coin calls because the consumer using the payphone would be able to determine whether the compensation amount was acceptable and, if not, the consumer could choose not to use the phone. And, arguably, a compensation amount that is the result of a negotiation, such as the commission payments from the presubscribed carrier, would be an appropriate market-based compensation for those calls.

interconnecting carriers with ANI.

In addition, the comments are divided regarding the Commission's tentative conclusion that a "carrier-pays" mechanism would have fewer transaction costs than a set use fee, which tends to cast doubt on the validity of this conclusion. For example, although the RBOC Coalition supports a carrier-pays mechanism, it argues that the Commission should "grandfather" existing state set-use fee compensation mechanisms. Thus, it appears that the transaction costs for a set use fee mechanism are not significantly more than for a carrier-pays mechanism. What is clear from the comments is that network and billing development will be required to implement either of these compensation mechanisms.

Thus, the most significant difference between the mechanisms is that different parties will be responsible for paying compensation: carriers will be responsible for payment under the carrier-pays mechanism; and consumers who use payphones will be responsible for payment under the set-use fee mechanism. As discussed previously, since the consumer chooses to use the payphone, the consumer is the cost-causer and should be responsible for paying any compensation. Also, as correctly stated by APCC, a set-use fee would separate compensation intended to support the payphone from the tariffed operator service and transmission elements of carrier services. Moreover, the higher the compensation amount, the more critical it becomes that the cost-causer (the consumer) is

required to pay the compensation because carriers would be less able to absorb the compensation amount and, therefore, would either have to increase rates to all consumers or directly bill the compensation to the cost-causer. On the other hand, the lower the compensation amount, the easier it would be for carriers to absorb it without having to increase rates.

III. INFORMATION DIGITS ARE NECESSARY TO TRACK CALLS AND ADMINISTER PAYPHONE COMPENSATION [¶ 29-35]

A number of parties support the Commission's tentative conclusion that carriers should be required to track calls from payphones. This tentative conclusion, and the parties' support for it, seems to result, in large part, from the fact that, currently, carriers track calls for compensation purposes because private payphone owners do not have the ability to do so. However, payphone owners will have the ability to track calls in the future when LEC call-tracking services become available to them. Ameritech states that it can track calls for compensation purposes, and it further indicates that it will make available a call-tracking service to private payphone owners. Once such a service is available, all payphone owners should be able to track calls and remit bills to carriers for compensation, as appropriate.

Interexchange carriers, however, must receive appropriate information digits with ANI to be able to verify the accuracy of invoices. If the Commission adopts these measures, disputes over compensation should be fairly nonexistent and, for any disputes

that do arise, the parties will have the information needed to address and resolve them. Thus, the costly and burdensome reporting and auditing mechanisms proposed by the Commission to deal with such disputes should not be necessary.

#### IV. INTERIM COMPENSATION [¶ 39]

The majority of commenters agrees that interim compensation should not be required before the Commission adopts final rules in this proceeding. Given the time frame within which this proceeding must be concluded, it is unlikely that any interim compensation mechanism could even be implemented. Also, the cost of implementing an interim mechanism for so short a period of time would not be justified.

The comments demonstrate that there is no need for interim compensation. The PSPs advance primarily two arguments in support of interim compensation: first, they contend that the number of access code calls is increasing and they are not receiving compensation for them; and, second, they argue that they are providing service for these uncompensated calls at a loss, thereby affecting the profitability of their business. The record evidence, however, refutes both of these claims. As an initial matter, it is well established that most payphone costs are fixed; that is, they are not traffic-sensitive. Therefore, an increase in the number of calls from a payphone does not increase the payphone provider's cost. Moreover, as demonstrated herein, payphone providers receive over \$3,300 a year in coin and



non-coin revenues, which greatly exceed the cost of providing a payphone. Finally, the success of private payphone providers refutes their contentions since it is unlikely that they could have supported the increase in the number of phones that were placed into service over the past decade, if they were operating at a loss.

V. ASSET TRANSFERS [¶ 41-49 and ¶ 50-54]

The RBOC Coalition states that all asset transfers should be completed and all payphone costs should be removed from rates within 12 months of the effective date of the regulations to be adopted. With respect to intrastate subsidies, the RBOC Coalition and USTA argue that the states should be allowed to formulate their own mechanisms for removing intrastate subsidies. Although MCI does not object to this position, the Commission nevertheless should make clear that LECs are not entitled to any payphone compensation until all payphone costs are removed from interstate and intrastate rates. In addition, the Commission should establish a date certain by which these costs must be removed.

VI. RBOC SELECTION OF THE INTERLATA PIC [¶ 67-72]

The comments support MCI's position that, until the RBOCs face significant competition in the local exchange market, they will be able to subsidize commission payments to premise owners with regulated service revenues and, thus, behave anti-

competitively in the payphone market. Therefore, they should not be able to negotiate with location-providers to select the presubscribed carrier until there is effective competition in the local exchange market.

VII. PUBLIC INTEREST PAYPHONES [¶ 76-82]

The comments also support MCI's view that public interest payphones are a universal service issue. Therefore, it would be appropriate for the Commission to refer this issue to the Federal/State Joint Board on Universal Service. As an alternative approach, however, MCI supports those commenters who argue that any government entity requesting public interest payphones should pay for them.

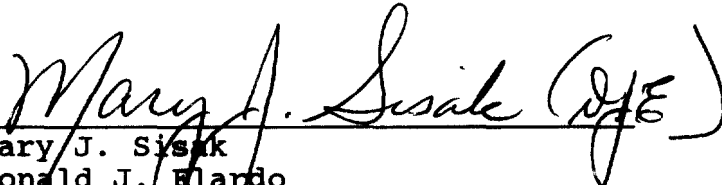
VIII. CONCLUSION

MCI respectfully requests that the Commission adopt the positions expressed herein and in MCI's Comments in this proceeding.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

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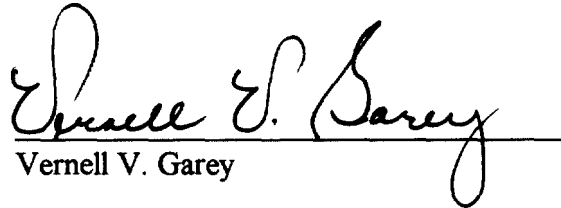
  
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Dated: July 15, 1996

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